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LETTER DATED 23 MARCH 1999 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to forward herewith the report of the Federal Republic of Yugoslavia on the situation in the negotiations with the Republic of Croatia on the disputed issue of Prevlaka (see annex).

I should be very grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

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Annex

Report of the Federal Republic of Yugoslavia on the situation in the negotiations with the Republic of Croatia on the disputed issue of Prevlaka

In accordance with paragraph 4 of Security Council resolution 1222 (1999) of 15 January 1999, a report is herewith submitted on the situation in the negotiations between the delegation of the Federal Republic of Yugoslavia and the delegation of the Republic of Croatia on the establishment of the extension of the State border between the Federal Republic of Yugoslavia and the Republic of Croatia in Sector South and the resolution of the disputed issue of Prevlaka.

At the invitation of the Yugoslav side the fourth meeting was held between the delegations of the two States in Belgrade on 9 March 1999 for the purpose of resolving the disputed issue of Prevlaka. At the meeting, the Yugoslav side reiterated its earlier protest to the Croatian side (note verbale of the Federal Ministry of Foreign Affairs of the Federal Republic of Yugoslavia No. 18-2/99 of 3 February 1999) following the opening of the border crossing of Debeli Brijeg. Because of a unilateral opening of the crossing in a manner with is contrary to the Agreement of the Federal Government of the Federal Republic of Yugoslavia and the Government of the Republic of Croatia Designating Border Crossings, of 15 September 1997, it was pointed out that the act of the Croatian side cannot prejudge the resolution of the disputed issue of Prevlaka, i.e., the extension of the border line between the two States in Sector South. Such act is illegal and null and void and can produce no legal effect.

At the fourth meeting, the two sides presented their ideas and argumentations on the legal foundation on which each side bases its arguments regarding its own view of where the inter-State border should extend.

The Croatian side presented no arguments negating the legal foundation of the Yugoslav arguments relative to the extension of the State border in Sector South and the resolution of the disputed issue of Prevlaka.

The Socialist Republic of Montenegro and the Socialist Republic of Croatia, two Federal Republics of the Socialist Federal Republic of Yugoslavia, designated their mutual border by their laws. Both Republics adopted their own laws on sea fishery: the Law on Sea Fishery of the Socialist Republic of Montenegro (Official Gazette of the Socialist Republic of Montenegro No. 10/79 of 3 April 1979) and the Law on Sea Fishery of the Socialist Republic of Croatia (People's Gazette of the Socialist Republic of Croatia No. 64/1980 of 4 November 1980).

The laws are of particular importance because they contain provisions on Republican borders and because no collision exists between Montenegrin and Croatian laws regarding the definition of Republican borders. Both laws define the fishery zones of one and the other Republic and article 2 of the Law on Sea Fishery of the Socialist Republic of Montenegro reads: "The fishery zone of the Republic of Montenegro ... encompasses the part of the coastal sea and the continental shelf of the Socialist Federal Republic of Yugoslavia within the

borders of the Socialist Republic of Montenegro", while article 2 of the Law on Sea Fishery of the Socialist Republic of Croatia reads: "As the fishery zone under this Law is considered the part of the coastal sea of the Socialist Federal Republic of Yugoslavia within the borders of the Republic of Croatia". Both laws were in force at the relevant time. The very texts of the laws point to the territory in which they are applied. Thus article 4 of the Law on Sea Fishery of the Socialist Republic of Montenegro says: "It is prohibited to fish by dragnets (trawls) in the coastal shelf up to one nautical mile from the coast and in Boka Kotorska Bay". This provision shows that the law was applied in entire Boka Kotorska Bay.

The Croatian law mentions by name a series of localities in which certain forms of fishery are prohibited; however, it does not mention any locality within Boka Kotorska Bay.

The two laws and the practice of their implementation testify to the agreement of the two Republics that the common border does not end in Boka Kotorska Bay as now averred by the Croatian side. For, had that been the case, it would have been necessary for the Croatian fishery law to extend also to part of Boka Kotorska Bay. The Croatian side presented nothing which would seriously question the Yugoslav argument.

It should be borne in mind that there existed Republican companies for the supply of electrical energy and for PTT communications in the former Socialist Federal Republic of Yugoslavia, organized on the territorial principle, i.e., the companies organized their activities in the territory of a Republic, a member of the Federation. Accordingly, the Electrical Energy Supply Company of Montenegro operated in the territory of Montenegro, while the Electrical Energy Supply Company of Croatia operated in the territory of Croatia; the PTT Company of Montenegro operated in the territory of Montenegro, while the PTT Company of Croatia operated in the territory of Croatia. There exist in the disputed territory of Prevlaka electrical installations which are part of the Electrical Energy Supply Company of Montenegro and telephone installations which are part of the PTT Company of Montenegro. This confirms that the disputed territory was part of the territory of Montenegro. Laying down of those installations in the territory of Prevlaka had not been opposed and disputed by the Republic of Croatia. The Croatian side did not dispute the Yugoslav document.

The presented arguments confirm that, at the relevant time, entire Boka Kotorska Bay, including the Prevlaka peninsula, was considered by both Republics as part of the territory of the Republic of Montenegro.

The expectation of the Yugoslav side that a serious and comprehensive consideration of the presented argumentation would follow in accordance with the principle of all-round negotiation and in accordance with the obligations from the resolution of the Security Council did not materialize because of the position of the Croatian side. The Yugoslav side assessed such attitude of the Croatian side as a lack of readiness for serious negotiations which was testified by the proposal of the Croatian side to call off the negotiations at this level and resume them at a higher one.